

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

TANK VESSEL REQUIREMENTS

Since 1992 Virginia has regulated tank vessels transporting oil in state waters. As of June 24, 1998 the regulations for tank vessel Oil Discharge Contingency Plans (ODCP) and tank vessel financial responsibility (TVFR) were consolidated into a single regulation (9 VAC 25-101-10 et seq.) Although the basic provisions of the regulation remain the same, there are changes that affect tank vessels transporting oil into Virginia waters. The following pages will provide information to tank vessel operators as to changes in the new regulation, a review of the existing requirements and will assist with the correct and efficient application for ODCP and TVFR approvals.

Operators of regulated tank vessels entering Virginia waters must have approval of an ODCP and evidence of TVFR to be in compliance with Virginia law. The staff at the Department of Environmental Quality (DEQ) is committed to providing assistance to tank vessel operators to ensure regulatory compliance and environmental protection. Questions are encouraged and welcomed. If you have additional questions, feel free to contact me at the phone number below or by e-mail. Electronic copies of the forms can be obtained by return e-mail and copies of the regulation, all forms and instructions are also available on the DEQ web site (www.deq.state.va.us).

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VIRGINIA TANK VESSEL REQUIREMENTS

What's new?

U *single regulation for all tank vessel requirements*

Previous regulations (9 VAC 25-100-10 et seq., formerly VR680-14-08 and 9 VAC 25-90-10 et seq., formerly VR680-14-07) were combined and divided to have a single regulation for tank vessels (9 VAC 25-101-10 et seq.) and one for on shore oil storage facilities (9 VAC 25-91-10 et seq.) The new regulations, for both tank vessels and facilities, became effective on June 24, 1998. The previous regulations were repealed upon this effective date.

U *opportunity for waiver of application fees*

The DEQ has determined that U. S. Coast Guard requirements for tank vessel financial responsibility and vessel response plans meet or exceed Virginia's requirements. In support of the ~~A~~single plan~~@~~ concept of oil spill response planning and relief from duplicative regulations, the DEQ has provided the opportunity for tank vessel operators to submit Coast Guard approved documents to meet Virginia requirements. Because of the streamlined process to review and approve applications based on Coast Guard approval, the application fees have been waived.

U *new application forms must be submitted*

As of the effective date of the new regulation or upon expiration of current approval, new forms for approval of tank vessel financial responsibility (TVFR) and an oil discharge contingency plan (ODCP) must be submitted. To facilitate the annual renewal of TVFR as required by law, a new form was developed to simplify the process. Because of the complex nature of international oil transportation, a new form was developed to designate an agent to act on behalf of the operator to renew TVFR and submit updated information to the DEQ. Although rarely used, new forms for application of TVFR approval using insurance, surety or guaranty means are also available. Electronic copies of all forms are available from the DEQ, but signed originals must be received in order to process the applications.

U *Public vessels~~@~~ exempt from entire tank vessel regulation*

Public vessels are exempt from all provisions of the new regulation. Public vessel means a vessel owned or bareboat-chartered and operated by the United States, by a state or political subdivision or a foreign nation, except when the vessel is engaged in commerce. However, all requirements for reporting, containment and cleanup of oil discharges still apply to public vessels.

VIRGINIA TANK VESSEL REQUIREMENTS

What's the same?

U *applies to tank vessels*

Requirements apply to all tank vessels with 15,000 gallons or more of bulk cargo capacity transporting or transferring oil upon Virginia waters. Does **not** include public vessels or vessels engaged only in activities within state waters related to the containment and cleanup of oil, including response-related training or drills.

U *must have approved TVFR*

The operator of a tank vessel entering Virginia waters shall deposit with the state cash or its equivalent in the amount of \$500 per gross ton of such vessel. Tank vessel operators may obtain exemption from the cash deposit if evidence of financial responsibility is provided in an amount equal to the respective cash deposit. The acceptable means of providing such evidence are: self-insurance, insurance, surety or guaranty. Acceptance of evidence of financial responsibility expires one year from the date the department exempts an operator from the cash deposit requirement based on the acceptance of self-insurance.

U *must have approved ODCP*

No tank vessel operator shall cause or permit a tank vessel to transport or transfer oil in Virginia waters unless an oil discharge contingency plan has been approved by the DEQ. The plan must ensure that the operator can take such steps necessary to protect environmentally sensitive areas, to respond to the threat of an oil discharge and to contain, cleanup and mitigate the discharge within the shortest feasible time. A plan may include multiple vessels and is effective for five years from receipt of a complete application. Though the DEQ may require an oil discharge exercise to demonstrate the operator's ability to implement the plan, the operator will be consulted prior to initiating the exercise.

U *definition of Oil*

Oil means all petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons, regardless of specific gravity. The tank vessel regulation does **not** include propane, nonpetroleum hydrocarbon-based animal or vegetable oils or petroleum or other products (including crude oils or any fraction thereof) which is specifically listed as a hazardous substance under CERCLA (42 USC 9601 et seq.)

What's the same? (Continued)

U ***definition of Operator***

A**Operator**@ means any person who owns, operates, charters by demise, rents or otherwise exercises control over or responsibility for the vessel. A **Aperson**@ may be a firm, corporation, association or partnership of one or more individuals.

U ***penalties for non-compliance***

Article 11 of the State Water Control Law (' ' 62.1-44.34:14 through 20) describes penalties for failure to obtain approval of the oil discharge contingency plan, failure to maintain evidence of financial responsibility, failure to cooperate in spill containment and cleanup, failure to report an oil discharge and failure to implement a contingency plan. Approval of the oil discharge contingency plan and acceptance of evidence of financial responsibility can be revoked if obtained by fraud or misrepresentation as well as for violations of other provisions of the article.

List of Tank Vessel Forms

(9 VAC 25-101-10 et seq.)

Standard forms for approval

Application for Approval of a Tank Vessel Oil Discharge Contingency Plan (ODCP), DEQ101-1 (7/99).

Agent Designation Form for Commonwealth of Virginia Tank Vessel Oil Discharge Contingency Plan (ODCP) and Financial Responsibility Requirements, DEQ101-2 (4/98).

Application for Approval of Evidence of Tank Vessel Financial Responsibility (TVFR), DEQ101-6 (7/99).

Annual Certification of Evidence of Tank Vessel Financial Responsibility, DEQ101-7 (7/99).

Forms rarely used

Insurance Form Furnished as Evidence of Financial Responsibility in Respect of Liability for Discharge of Oil Under ' 62.1-44.34:16 of the Code of Virginia and 9 VAC 25-101-50-A, DEQ101-3 (3/98).

Surety Bond Form Furnished as Evidence of Financial Responsibility of Liability for Discharge of Oil Under ' 62.1-44.34:16 of the Code of Virginia and 9 VAC 25-101-50-A, DEQ101-4 (3/98).

Guaranty Form Furnished as Evidence of Financial Responsibility of Liability for Discharge of Oil Under ' 62.1-44.34:16 of the Code of Virginia and 9 VAC 25-101-50-A, DEQ101-5 (3/98).

Application for Approval of a Tank Vessel Oil Discharge Contingency Plan (ODCP)
Form Number DEQ101-1

- What? !** application form for ODCP approval submitted by tank vessel operator
- ! more than one vessel, use continuation page
- ! copy of USCG Vessel Response Plan approval letter and certification of COTP zone of Hampton Roads for each vessel must be attached
- ! ODCP approval letter listing vessels, expiration date and spill reporting information will be sent to operator
- ! copy of approval letter must be kept on board while in Virginia waters
- ! DO NOT send copy of response plan
- Who? !** Aoperator@ must be the same entity as to USCG VRP approval letter issued
- ! certification statement signed by authorized corporate official (signature no longer needs to be notarized)
- When? !** as of June 24, 1998 or upon expiration of current ODCP approval
- Add vessel or !** operator must submit application form with VRP approval as above
change name?
- ! letter for, or including, new vessel will be sent to operator; copy must be kept on board while in Virginia waters
- Vessel sold? !** notification from operator or designated agent of date when no longer in operation
- ! acknowledgment letter sent from DEQ upon request
- ! amended ODCP approval letter for remaining vessels issued upon request
- Upkeep? !** must have current VRP approval on file at DEQ for ODCP approval to remain valid

! DO NOT send response plan updates to DEQ
Agent Designation Form for Commonwealth of Virginia Tank Vessel Oil Discharge
Contingency Plan (ODCP) and Financial Responsibility Requirements

Form Number **DEQ101-2**

What? ! form designates an agent on behalf of the operator to submit:

" annual TVFR certification (form DEQ101-7) and updated
COFRs,

" updated VRP approval documentation,

" notifications regarding vessels sold, address changes, etc.

! operator may designate the agent for either (or both) submittals of TVFR
certification and updates of USCG COFR or updates of USCG VRP
approval

! agent designation is *optional* depending on business interests, convenience

! Agent designation@ should **not** be confused with naming an agent for
service of process, which *is required* to be listed on form DEQ101-6

Who? ! form submitted by the operator, signed by authorized corporate official

! designated agent may be any person or company

! operator may designate a different agent for TVFR certification and
updates of USCG COFR, or updates of USCG VRP approval by
submitting separate forms

When? ! submit any time, preferably when applications are submitted

Upkeep? ! none, except for address, phone, fax

! agent designation in effect until otherwise specified

Application for Approval of Evidence of Tank Vessel Financial Responsibility (TVFR)
Form Number DEQ101-6

- What?** ! application form for TVFR approval submitted by tank vessel operator
 ! (no fee if using USCG COFR to meet Virginia requirements)
 ! more than one vessel, use continuation page
- ! agent for service of process with location address in VA must be identified
- ! copy of current USCG COFR for each vessel must be attached
- ! letter approving evidence of financial responsibility listing vessels will be
 sent to operator
- ! copy of approval letter must be kept on board while in Virginia waters
- Who?** ! Aoperator@ must be the same entity as to whom USCG COFR is issued
- ! certification statement signed by authorized corporate official
 (signature no longer needs to be notarized)
- When?** ! as of June 24, 1998 or upon expiration of current approval
- Add vessel or ! operator must submit application form with copy of COFR as above**
change name? ! letter for new vessel will be sent; copy must be kept on board while in
 Virginia waters
- Vessel sold? ! operator (or designated agent) notifies DEQ of date when no longer in**
 operation
- ! acknowledgment letter will be sent by DEQ by request
- ! amended approval letter for other vessels will be issued upon request
- Upkeep?** ! must have current COFR on file at DEQ for approval to remain valid

! approval for TVFR must be renewed annually; use form DEQ101-7

Annual Certification of Evidence of Tank Vessel Financial Responsibility

Form number **DEQ101-7**

- What? !** application form for **annual renewal** for evidence of TVFR approval
(no fee for renewal)
- ! form certifies that no changes have occurred since last application
- ! letter approving evidence of TVFR of listed vessel or vessels will be sent to operator or designated agent
- ! copy of approval letter must be kept on board while in Virginia waters
- ! approval letter will reflect any vessel additions, removal of sold vessels or name changes submitted since previous approval
- Who? !** form submitted and signed by operator OR designated agent
- ! (to designate agent, operator must submit form DEQ101-2)
- When? !** thirty days prior to expiration of current approval, which is one year from the date of the TVFR approval letter
- Upkeep? !** must keep current COFR on file with DEQ to remain valid
- ! if COFR has been reissued or renewed within previous year and has not already been submitted, attach a copy to the TVFR Annual Renewal form

SUPPLEMENT TO VESSEL RESPONSE PLAN

OIL SPILLS TO VIRGINIA WATERS MUST BE REPORTED!

In addition to reporting an oil discharge to the National Response Center (U. S. Guard requirements) the operator of a vessel from which there is a discharge of oil to Virginia state waters **must report immediately upon learning** of the discharge and implement the vessel response plan. Reports are made to the Department of Environmental Quality (Tidewater Regional Office) at **757-518-2000** during the hours of 8:15 AM to 5:00 PM, Monday through Friday. At other times, report oil discharges to Department of Emergency Services at **804-674-2400**.

L Please note:

U Discharge means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

U Oil means petroleum of any kind, including fuel oil, lubricating oil, crude oil, petroleum by-products, sludge, oily wastewater or any oil that causes a film, sheen or discoloration upon the water surface or adjoining shorelines or causes a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines.

U State Waters means all water on the surface or under the ground within the borders of Virginia and within three (3) nautical miles of the Virginia shoreline.